IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

OP.No. 11723 of 1999(U)

PETITIONER:

K.G.BINDU, H.S.A. (MATHEMATICS),
AYATHIL, KOLLAM.

BY ADV. SRI.ELVIN PETER P.J.
SRI.S.RAMESH
SRI.P.N.SANTHOSH
SRI.S.D.ASOKAN

RESPONDENTS:
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1. **THE DIRECTOR OF PUBLIC INSTRUCTIONS,**
   THIRUVANANTHAPURAM.

2. **THE DISTRICT EDUCATIONAL OFFICER,**
   KOLLAM.

3. **THE MANAGER, V.V.M.S. AYATHIL, KOLLAM.**

BY GOVERNMENT PLEADER SMT.T.B.RAMANI

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

tss

OP. 11723/1999

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE APPOINTMENT ORDER DT. 25.7.94 ALONG WITH THE APPROVAL OF THE PETITIONER.

EXT.P2:- COPY OF THE APPOINTMENT ORDER DT. 1.6.98 OF THE PETITIONER.

EXT.P3:- COPY OF THE STAFF FIXATION ORDER NO.B4.7711/98 DT. 10.8.98 ISSUED BY THE 2ND RESPONDENT.

EXT.P4:- COPY OF THE REPORT NO.SC (1) 52022/98/DPI, DT. 15.1.99 SUBMITTED BY THE SUPER CHECK CELL.

EXT.P5:- COPY OF THE REPRESENTATION DT. 1`6.2.99 SUBMITTED BY THE PETITIONER BEFORE THE D.P.I.

EXT.P6:- COPY OF THE ORDER NO.SC(1) 52022/98/DPI DT. 13.4.99 ISSUED BY THE 1ST RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

tss

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.11723 OF 1999

Dated this the 11th day of September, 2007

JUDGMENT

"C.R."

The petitioner, then a claimant under Rule 51 A of Chapter XIV of the Kerala Education Rules, 1958, for short, the KER, was appointed as an High School Assistant during the relevant academic year. The staff fixation for the school was made by the District Educational Officer. However, the appointment of the petitioner remained to be approved, in so far as the period from 1.6.1998 to 31.3.1999 is concerned. By the impugned proceedings, there was a super check in terms of Rule 16 of Chapter XXIII KER, which resulted in the Director of Public Instructions coming to the conclusion that there were bogus admissions and the pupil strength and staff strength were inflated to result in the staff fixation order of the DEO. Resultantly, the DPI interfered with the said fixation order also by imposing monetary liability on the Headmistress and the DEO.

2. The contention of the petitioner is that where fixation of staff strength in schools is revised, Rule 15 A of Chapter XXIII KER comes into play and because the impugned action has been taken after September of that academic year, an allowance for a fall of 10% in the effective strength ought to have been granted in terms of that Rule. But a close reading of Rule 15 A would show that the allowance directed thereby applies only to situations where the DPI exercises revisional authority under Rule 12 E or the educational officer, the DEO, undertakes the exercise under Rule 15 of Chapter XXIII. The exercise of reaching at bogus admissions or attendance or fixation of staff strength by fraud or misrepresentation, in terms of Rule 15 in Chapter XXIII, is an exercise that is undertaken by the educational officer while the exercise of super check under Rule 16 is under the control of the DPI. This view is also fortified by the fact that Rule 15 A was inserted into Chapter XXIII only as per the Government Order dated 21.8.1974, which was published in the gazette on 24.9.1974, while Rule 16 came in only thereafter, by publication of Government Order dated

23.9.1978 in the gazette dated 27.9.1978. Rule 15 A does not apply to situations where a super check is conducted at the instance of the DPI in terms of Rule 16 of Chapter XXIII KER. Hence, Rule 15 A of chapter XXIII KER does not aid the petitioner to further improve her claim.

For the aforesaid reasons, this writ petition fails. The same is accordingly dismissed. No costs.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.11723 OF 1999

JUDGMENT

11th SEPTEMBER, 2007.

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